



**COMMONWEALTH of VIRGINIA**  
*DEPARTMENT OF ENVIRONMENTAL QUALITY*

W. Tayloe Murphy, Jr.  
Secretary of Natural Resources

**PIEDMONT REGIONAL OFFICE**

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Robert G. Burnley  
Director

Gerard Seeley, Jr.  
Piedmont Regional Director

**STATE WATER CONTROL BOARD ENFORCEMENT ACTION  
SPECIAL ORDER BY CONSENT  
ISSUED TO  
BROAD STREET RAMZ, LLC**

**SECTION A: Purpose**

This is a Special Order by consent issued under the authority of Va. Code § 62.1-44.15 (8a) and (8d) of the Code of Virginia issued by the State Water Control Board between the Board and Broad Street RAMZ, LLC, to resolve certain violations of the State Water Control Law and regulations, resulting from failure to provide a Site Characterization Report, including Initial Abatement Measures and Tank Closure information for the site located at 933 West Broad Street in Richmond, Virginia.

**SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Va. Code §§10.1-1184 and 62.1-44.7.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code §10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Special Order.

6. "Regional Office" or "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
7. "Broad Street RAMZ" means Broad Street RAMZ, LLC.
8. "Site" means the Broad Street RAMZ, LLC property located at 933 West Broad Street in Richmond, Virginia.
9. "UST" means underground storage tank.
10. "The Regulation" means 9 VAC 25-580-10 (Underground Storage Tanks; Technical Standards and Corrective Action Requirements), which contain requirements for release reporting, investigating suspected releases, and corrective action.

### **SECTION C: Findings of Fact and Conclusions of Law**

1. The Regulation requires that owners/operators having a confirmed release from an UST must characterize the release, determine the extent of contamination, risks posed by the contamination, and the corrective actions needed to address the risks. The DEQ will, in most cases, require that this information be presented in an Initial Abatement Measures and Site Characterization Report. In addition, a Tank Closure Report must be received by the DEQ within 30 days after one or more regulated UST systems are permanently closed. The Closure Report must contain an updated 7530-2, UST Notification Form, a copy of the building permit, and the UST closure assessment
2. Broad Street RAMZ is an UST owner within the meaning of Code § 62.1-44.34:8.
3. On November 13, 2003, DEQ received a phone call reporting a release of petroleum product from an underground storage tank at 933 West Broad Street in Richmond, VA. The release was reported to be approximately 25 gallons and was contained at the excavation pit. The contaminated soil was disposed of and DEQ requested a tank closure report be provided for the three USTs discovered at the property in accordance with the regulations.
4. Between April 15 and April 19, 2004, DEQ received several phone calls notifying the Department that four additional USTs were discovered on the site. During the removal of these four USTs, one of the USTs was ruptured releasing petroleum at the excavation pit. On the same day, DEQ staff inspected the site and requested an Initial Abatement Measures Report and a Site Characterization Report (SCR), as well as the tank closure reports required from the November 2003 release be provided the Department prior to July 20, 2004.
5. On December 16, 2004, a Warning Letter was issued to Broad Street RAMZ for failure to provide the above reports.
6. On March 8, 2005, a Notice of Violation was issued to Broad Street RAMZ for failure to provide the above reports.

7. On March 24, 2004, an incomplete tank closure report resulting from the November 2003 release as well as the reports resulting from the April 15, 2004 release were provided to the Department as one Site Characterization Report. The incomplete documents were subsequently provided to the Department and the Site Characterization Report is considered complete.
8. In an April 14, 2005 letter, the Department notified Broad Street RAMZ that the site does not warrant further assessment or corrective action at this time.

#### **SECTION D: Agreement and Order**

Accordingly, the Board, by virtue of the authority granted it in Va. Code §§62.1-44.15 (8a) and (8d) orders Broad Street RAMZ, and Broad Street RAMZ voluntarily agrees to pay a civil charge of \$1,120 within 30 days of the effective date of the Order. Payment shall be by check, certified check, money order, or cashier's check payable to "Treasurer of Virginia" and sent to:

Receipts Control  
Department of Environmental Quality  
P.O. Box 10150  
Richmond, VA 23240

Either on a transmittal letter or as a notation on the check, Broad Street RAMZ shall: 1) indicate that the check is submitted pursuant to this Order, and 2) include its Federal Identification Number.

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of Broad Street RAMZ, for good cause shown by Broad Street RAMZ, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Broad Street RAMZ by DEQ on March 8, 2005. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (a) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (b) seeking subsequent remediation of the facility as may be authorized by law; or (c) taking subsequent action to enforce this Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Broad Street RAMZ admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.

4. Broad Street RAMZ consents to venue in the Circuit Court of the City of Richmond, VA, for any civil action taken to enforce the terms of this order.
5. Broad Street RAMZ declares that it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.* and State Water Control Law, and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing shall be construed as a waiver of the right to any administrative proceeding for, or judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Broad Street RAMZ to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Broad Street RAMZ shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Broad Street RAMZ shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Broad Street RAMZ shall notify the PRO Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of this Order. Such notice shall set forth: (a) the reasons for the delay or noncompliance; (b) the projected duration of any such delay or noncompliance; (c) the measures taken and to be taken to prevent or minimize such delay or noncompliance; and (d) the timetable by which such measures will be implemented and the date full compliance will be achieved. Failure to so notify the Regional Director within twenty-four hours of learning of any condition above, which Broad Street RAMZ intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim of inability to comply with a requirement of this Order.
9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Broad Street RAMZ. Notwithstanding the foregoing, Broad Street RAMZ agrees to be bound by any compliance date that precedes the effective date of this Order.

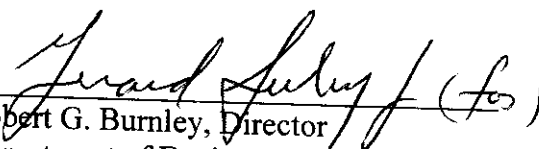
11. This Order shall continue in effect until:

- a. Broad Street RAMZ petitions the Regional Director to terminate the Order after it has completed all of the requirements of the Order. The Regional Director's determination that Broad Street RAMZ has satisfied all the requirements of the Order is a "case decision" within the meaning of the Virginia Administrative Process Act; or
- b. The Director or the Board may terminate this Order in his or its sole discretion upon 30 days notice to Broad Street RAMZ.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Broad Street RAMZ from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below, Broad Street RAMZ voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 29<sup>th</sup> day of June, 2005.

  
Robert G. Burnley, Director  
Department of Environmental Quality

Broad Street RAMZ voluntarily agrees to the issuance of this Order. -

Date: May 12, 2005

By: RAMZ, LLC its sole member

By:   
Michael Zamagias

Title: Authorized Member

State of Pennsylvania

City/County of Pittsburgh / Allegheny County

The foregoing document was signed and acknowledged before me this 12<sup>th</sup> day of May, 2005, by Michael G. Zamagias, who is an authorized member of RAMZ, LLC, the sole member of Broad Street RAMZ, LLC.

Margaret J. Battista  
Notary Public

COMMONWEALTH OF PENNSYLVANIA  
Notarial Seal  
Margaret J. Battista, Notary Public  
City of Pittsburgh, Allegheny County  
My Commission Expires July 8, 2008  
Member, Pennsylvania Association Of Notaries

My commission expires